

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 NANCY HYDER,

No. C 05-1782 CW

12 Plaintiff,

ORDER GRANTING  
PLAINTIFF'S  
MOTION TO ENTER  
JUDGMENT

13 v.

14 KEMPER NATIONAL SERVICES, INC.;  
LUMBERMAN'S MUTUAL INSURANCE CO.;  
BROADSPIRE SERVICES, INC.; VODAFONE  
AMERICAS, INC.; VODAFONE AMERICAS,  
INC., SHORT TERM DISABILITY PLAN;  
VODAFONE AMERICAS, INC., LONG TERM  
DISABILITY PLAN; VODAFONE EMPLOYEE  
HEALTH PLAN; VODAFONE EMPLOYEE DENTAL  
PLAN; VERIZON WIRELESS, INC.; and  
DOES 1 TO 50, inclusive,

19 Defendants.

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22 On June 30, 2006, the Court issued an order granting  
23 Plaintiff's motion under Federal Rule of Civil Procedure 52 for  
24 adjudication of her Employee Retirement Income Security Act (ERISA)  
25 claim against Defendants Kemper National Services, Inc. (Kemper);  
26 Lumberman's Mutual Insurance Co. (Lumberman's); Broadspire  
27 Services, Inc. (Broadspire); Vodafone Americas, Inc., Long Term  
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1 Disability Plan (the LTD Plan); and Vodafone Americas, Inc., Short  
2 Term Disability Plan (the STD Plan) (collectively the Disability  
3 Plan Defendants).<sup>1</sup> On October 11, 2006, the Court issued an order  
4 determining the amount of back benefits and pre-judgment interest  
5 on Plaintiff's ERISA claim against the Disability Plan Defendants.  
6 On December 28, 2006, the Court issued an order granting  
7 Plaintiff's unopposed motion to modify the order adjudicating the  
8 ERISA claim and denying without prejudice Plaintiff's motion for  
9 entry of partial judgment because Plaintiff's fourth and fifth  
10 causes of action had not yet been adjudicated.

11 The parties have settled those claims, and Plaintiff again  
12 moves for entry of judgment. The Disability Plan Defendants do not  
13 oppose entry of judgment, but object to the fifth paragraph of  
14 Plaintiff's proposed judgment, which provides,

15 Plaintiff is entitled to prospective long-term disability  
16 benefits, from and after the date of this judgment, at the  
17 rate of \$5,597.84 per month, until such time as her  
18 entitlement to such benefits shall change or terminate  
19 pursuant to the terms of the Vodafone long term disability  
20 plan.

21 Disability Plan Defendants object to this provision on three  
22 grounds, none of which are well taken. First, they argue that the  
23 Court's opinion adjudicating Plaintiff's ERISA claim never  
24 mentioned prospective benefits. However, the order specifically  
25 found that Plaintiff "is entitled to receive LTD [long-term  
26 disability] benefits." June 30, 2006 Order at 26.

27 Next, Disability Plan Defendants argue that a prospective

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28 <sup>1</sup>For a complete overview of the facts of this case, see the  
Court's June 30, 2006 order.

1 award is premature because Plaintiff's future condition is unknown.  
2 Finally, Disability Plan Defendants argue that a prospective award  
3 would violate the terms of the plan, which only allows benefits if  
4 the participant is eligible under the terms of the plan. However,  
5 the terms of the proposed judgment address that concern by allowing  
6 prospective benefits only "until such time as her entitlement to  
7 such benefits shall change or terminate pursuant to the terms of  
8 the Vodafone long term disability plan."

9 For the foregoing reason, the Court GRANTS Plaintiff's motion  
10 for entry of judgment. Judgment shall enter accordingly.

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12 IT IS SO ORDERED.

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14 Dated: 4/18/07  
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CLAUDIA WILKEN  
United States District Judge